



LEFT TO RIGHT: *Associate Justice Carol A. Corrigan, Associate Justice Joyce L. Kennard, Associate Justice Kathryn M. Werdegar, Chief Justice Tani Cantil-Sakauye, Associate Justice Ming W. Chin, Associate Justice Marvin R. Baxter and Associate Justice Goodwin Liu.*

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A Salute to the Women Justices of the California Supreme Court

BY RAY McDEVITT* & MAUREEN B. DEAR**

In 1969, the year your editor graduated from law school, he was fortunate enough to have had the opportunity to serve as a law clerk for the late Justice Raymond L. Sullivan of the California Supreme Court. At that time all seven of the justices on the Court were men. That had been the case for the preceding 120 years, as was evident to anyone walking down the main corridor of the Court, its walls lined with the photographs of the justices, all male, who had served on the Court. This state of affairs would continue for another seven years, until the controversial appointment of Rose Bird as Chief Justice in 1977. When she was voted out of office in 1986, the Court once again was comprised only of men, until the appointment of Justice Joyce Kennard in 1989.

Fewer than 25 years later, much had changed. In 2012, the ABA Commission on Women in the Profession conferred the prestigious Margaret Brent Women Lawyers of Achievement Award on California's newly-

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appointed Chief Justice Tani Cantil-Sakauye. At the presentation ceremony the Chief Justice, in accepting the award, announced that she was “proud that the California Supreme Court now has a majority of women.”

At some point in the future, there will have been so many women justices, of so many differing personal characteristics and judicial philosophies, that an article discussing a state Supreme Court comprised of a majority of women would no longer be newsworthy. But at this particular moment it does seem appropriate to take note of, and applaud, this welcome change in the composition of our esteemed High Court.

An integral element of this article is a series of profiles of each of the six women who have served, or are currently serving, as justices on the Court. These profiles recount the basic educational attainments, legal/judicial accomplishments, and community service contributions of the individual justices, considered as individuals. Here we attempt to present some more general observations, noting in particular those attributes and experiences that all, or many, of the justices have in common. Whether viewed individually or collectively it is readily apparent that this is an extraordinary group of highly intelligent, extremely hard-working, fiercely independent lawyers who are blessed with astonishing reserves of stamina.

All are, or were, pioneers simply by virtue of having chosen the law as their career path at times when the

profession was male-dominated and frequently not welcoming to women. Each also was a trailblazer in more dramatic ways. Rose Bird was the first woman appointed to the California Supreme Court and the first to serve as Chief Justice. Kathryn Werdegar, one of only two women in her law school class at Boalt Hall, UC Berkeley, was the first woman elected as Editor-in-Chief of the *California Law Review*. Carol Corrigan was among the first women to serve in the Alameda County District Attorney's Office. Others blazed trails by virtue of their ethnic heritage. Joyce Kennard was the first Asian American, as well as the second woman, appointed to the Court. Janice Rogers Brown was the first African-American woman appointed to the Court. Just two years ago Tani Cantil-Sakauye became the first Filipina American appointed to the Court, the first Asian American to serve as the Chief Justice of the Court (or, indeed, of any state high court in the continental United States), and only the second woman to serve as Chief Justice of California.

All began their legal careers, and worked for most of the time before their appointment to the bench, as government lawyers. This may in part reflect the more limited opportunities for women lawyers available in private-sector law firms during the 1950s and 1960s. However, it also reflects their common inclination toward public service, which has continued throughout their careers.

All of the justices currently on the Court commit time and energy to the public good, over and above the long hours they devote to the demands of their office. The Chief Justice, in addition to the expansive administrative and budgetary tasks with which she must constantly grapple, frequently takes time to meet with high school and community college students throughout the state to provide insight into the courts and to encourage them to work hard toward their goals. Justice Werdegar continually speaks to a wide array of audiences on timely legal topics, including those specifically pertaining to women lawyers. She also serves as an active member of the California Supreme Court Historical Society's Board of Directors, and recently authored an article for this publication, and for the Society's scholarly journal, *California Legal History*. Justice Corrigan has served for many years on the board of directors of her *alma mater*, Holy Names University, and on the governing board of St. Vincent's Day Home in Oakland. Justice Kennard takes care in mentoring her student externs, encouraging them to become familiar with the classic handbook, *Elements of Style*, and reviewing with them her editorial changes to each draft they prepare. She participates in seminar classes at Hastings, and meets with student externs from the Court of Appeal in her chambers. Many of the externs are Asian-American, and she encourages them to persevere in working to achieve their ambitions, and to remain mindful of the freedoms available to them in the United States.

Finally, many of these justices faced obstacles to success even more formidable than having come of age at a time when the legal profession was overwhelmingly male, and female students in law schools were rare. Chief Justice Bird's parents were chicken farmers. Her father died when she was only five and her mother worked in a factory to support the family. Justice Brown was born in Alabama to parents who were sharecroppers. As a child she attended racially segregated schools. Chief Justice Cantil-Sakauye's parents both worked in the fields, her father on plantations in Hawaii. She had no thought of becoming a lawyer until she participated in speech and debate classes at a nearby community college. She worked as a waitress throughout college and law school. Justice Kennard was born in Indonesia during WWII. Her father died in a Japanese concentration camp when she was one year old. After the war, she and her mother lived with four other families in a Quonset hut that had no kitchen, indoor plumbing, or refrigeration. She learned English at a tiny missionary school and by listening to Australian radio broadcasts of American popular songs. Justice Werdegar lost her mother at age four and one-half and spent much of her young life living apart from her family. At a time when it was much less common to do so, she juggled the demands of family life (raising two sons) and a legal career.

This article does not attempt to address the effect, if any, that having women on the Court may have made to the Court's opinions. The jury is still out on whether women bring some inherently distinctive quality to judicial decision-making. Former US Supreme Court Justice Sandra Day O'Connor, the first woman to serve on that Court, rejects the notion of gender-specific jurisprudence, stating "I think the important thing about my appointment is not that I will decide cases as a woman, but that I am a woman who will get to decide cases." To our knowledge, none of the women who have served, or are now serving, on the California High Court disagrees with Justice O'Connor's viewpoint. They recognize as well that women, by virtue of differing life experiences, can bring a uniquely diverse perspective to the Court. They also endorse the sentiment behind another of Justice O'Connor's observations about women justices. Last year, when asked to explain the value of having women judges, she replied: "Maybe you haven't noticed but I think about 51 or 52 percent of the population is female. I think they notice when their public bodies are dominated by one sex. Women care about this and they should."

All Californians should be proud of the four extraordinary, admirable women currently serving on the Court, together with their two pioneering former colleagues. Each of these women did take notice, and did care, and their vision and courage in pursuing a legal career has undoubtedly inspired others to take notice and care as well.

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FORMER CHIEF JUSTICE
ROSE ELIZABETH BIRD



PHOTO BY MOULIN STUDIOS

Chief Justice Bird was appointed to the California Supreme Court by Governor Edmund G. (Jerry) Brown, Jr. in February 1977. She was the first woman to be appointed to the California Supreme Court, as well as the Court's first female Chief Justice. She served for 10 challenging years as the 25th Chief Justice; during her tenure the Court was confronted with several highly-charged issues including Proposition 13, new and stricter criminal laws, and, of course, the death penalty cases. In 1986, after an organized, well-funded statewide political campaign (to which she essentially did not respond) she was removed from that office by California voters, many of whom were dissatisfied with what was perceived as her opposition to the death penalty.

She graduated from Long Island University, *magna cum laude*, and from Boalt Hall School of Law at the University of California, Berkeley, with academic distinction and awards for best oral advocacy and brief writing.

After law school she held a succession of path-breaking jobs. She was the first female law clerk for the Supreme Court of Nevada, the first female deputy public defender in Santa Clara County, and the first woman to hold a cabinet-level job in California (as Secretary of Agriculture). During the early to mid 1970s, she taught courses in criminal procedure and consumer protection law as a clinical professor at Stanford Law School.

In a 1986 interview Bird stated: "I've always said when you're the first of your sex or race in a position, three things apply to you. One, you're always placed under a microscope. Two, you're allowed no margin for error. And three, the assumption is always made that you achieved your position based on something other than merit."

Some considered her headstrong and stubborn and relations were, from time to time, strained with some of her colleagues. Yet, she showed a charming personal side in many ways: by bringing home-made baked goods to the regular Wednesday petition conferences held in her chambers; by remembering birthdays and anniversaries of her staff with a personal card or gift or a specially composed piece of poetry; and by sending a warm welcoming note to a newly-appointed justice, shortly after her own defeat at the polls.

The former Chief Justice died in December 1999, at the age of 63, from complications of breast cancer, which she had fought since 1976. The California Public Defender's Association established an award in her honor, as did the California Women Lawyers. Justice Joyce Kennard remarked at a special memorial session of the Court held after Chief Justice Bird's death:

"This woman of intellectual brilliance, extraordinary courage, compassion and grace has forever left her imprint on California's history . . . she was a woman of substance, a woman of character. Her friendship enriched my life."

ASSOCIATE JUSTICE
JOYCE L. KENNARD



PHOTO BY MOULIN STUDIOS

Justice Kennard was appointed to the California Supreme Court by Governor George Deukmejian in April 1989. Previously, she served as an Associate Justice on the California Court of Appeal (Second District) in Los Angeles, as a judge on the Los Angeles County Superior Court, and as a judge on the Los Angeles County Municipal Court. Prior to her initial appointment to the bench, she worked as an attorney for 12 years, first as a Deputy Attorney General in Los Angeles and later as a senior staff attorney for the state Court of Appeal.

She graduated from the University of Southern California in 1971, receiving her BA degree in German *magna cum laude*. As an undergraduate, she also was elected to Phi Beta Kappa and awarded academic scholarships, while working 20 hours a week. In 1974, she graduated from USC's Gould School of Law, and at the same time received a Master of Public Administration degree from USC's School of Public Administration.

Justice Kennard's judicial career has been replete with awards and honors including, most recently, the 2012 Judicial Achievement Award from the Asian American Bar Association of the Greater Bay Area. In 2011, she was recognized by the legal newspaper, *The Recorder*, as one of 20 "Women Leaders in the Law." She received the first Justice Rose Bird Memorial Award from the California Women Lawyers in 2001. And in 1993 she was honored by the ABA Commission on Women in the Profession, which selected her for its prestigious Margaret Brent Women Lawyers of Achievement Award.

Justice Kennard also has received special recognition in a number of publications including *The Counselors, Conversations With 18 Courageous Women Who Have Changed the World*, by Elizabeth Vrato (2002), and in a law review article, *Joyce L. Kennard: An Independent Streak on California's Highest Court*, 65 *Albany Law Rev.* 1181 (2002).

Not reflected in these awards, however, is recognition of one of the justice's less-known talents. Her spacious hillside garden in Marin County boasts a delightfully dizzying variety of rose bushes. To see them in bloom would certainly bring numerous accolades from any member of the American Rose Society.

**ASSOCIATE JUSTICE
KATHRYN M. WERDEGAR**



PHOTO BY MOULIN STUDIOS

Justice Werdegar was appointed to the California Supreme Court by Governor Pete Wilson in May 1994. Previously, in 1991, Governor Wilson had made her his first judicial appointment, placing her on the California Court of Appeal (First District) in San Francisco, where she was the only woman among 19 justices. Before her appointment to the bench, Justice Werdegar worked as an attorney in the Civil Rights Division of the United States Department of Justice in Washington, DC, during the Kennedy Administration; as director of the criminal law division of California Continuing Education of the Bar; as a senior staff attorney with the California Court of Appeal and the California Supreme Court; and as a professor and Associate Dean for Academic and Student Affairs at the University of San Francisco School of Law.

She received her BA (with honors) from the University of California at Berkeley. She commenced her law studies at the University of California School of Law (Boalt Hall), where she was the first woman to be elected Editor-in-Chief of the *California Law Review*. She completed her law studies at George Washington University, where she graduated first in her class, served on the *Law Review*, and earned the school's Charles Glover Award for Highest Achievement in the Field of Law.

Justice Werdegar has received numerous honors and awards. In 2012 she was invited to deliver the Jefferson Memorial Lecture at the University of California at Berkeley. In 2000, she was appointed Regents' Lecturer at UC Berkeley and was elected to membership in the American Law Institute. She also is the recipient of the University of California School of Law Citation Award (the school's highest honor) (2002); the Consumer Attorneys of California Justice of the Year Award (1998); the California Alumni Association Excellence in Achievement Award (1996); and the George Washington University Law Alumni Association Distinguished Public Service Award (1996). She has written widely, on a variety of legal topics, and is a member of the Board of Directors of the California Supreme Court Historical Society.

Justice Werdegar has balanced a demanding legal career with her role as wife, mother and grandmother. She and her husband, Dr. David Werdegar, have two married sons and five grandchildren. Her life is also balanced and enriched by her pleasure in playing classical piano and her love of the outdoors. Those who, like her, enjoy the peaks of Mount Tamalpais and the lakes of the Marin Municipal Water District should not be surprised to see this most stylish justice in sturdy hiking boots and gear boldly heading up a trail.

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FORMER ASSOCIATE JUSTICE
JANICE ROGERS BROWN



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Justice Brown was appointed to the California Supreme Court in May 1996 by Governor Pete Wilson. She served until June 2005, when she assumed her current position on the United States Court of Appeals for the District of Columbia Circuit. Justice Brown was the Supreme Court's first African-American female justice. Prior to her elevation to the Supreme Court, she served as an Associate Justice on the California Court of Appeal (Third District) in Sacramento (1994 to 1996), and as Legal Affairs Secretary to Governor Pete Wilson (1991 to 1994).

Justice Brown received her BA from California State University, Sacramento and her JD from UCLA. After graduating from law school in 1977, she worked for two years as a Deputy Legislative Counsel in the Office of the California Legislative Counsel in Sacramento. She then spent eight years in the California Attorney General's Office (1979–1987), where she worked in both the criminal and civil divisions. Subsequently, she served for two and one-half years as Deputy Secretary and General Counsel for the state's Business, Transportation and Housing Agency (1987–1990), working primarily with business regulatory departments. Prior to her appointment as the Governor's Legal Affairs Secretary, she briefly entered private practice as an associate at Nielsen, Merksamer, LLP, a Sacramento law firm specializing in government and political/electoral law (1990 to 1991).

Regarding her service on the California Supreme Court, she may be best remembered for the extended majority opinion she authored in a decision upholding Proposition 209, the voter-approved initiative barring

preferential treatment for women and minorities. (*Hi-Voltage Wire Works v. City of San Jose* (2000) 24 Cal.4th 537.) Her sometimes contentious writing style occasionally sparked controversy, as the concurring and dissenting opinion of Chief Justice George in the *Hi-Voltage Wire Works* case reveals. Like Justice Antonin Scalia on the US Supreme Court (with whom some of her former colleagues on the California Supreme Court have compared her) she did not shy away from taking verbal jabs at her colleagues.

After her appointment to the Court she chose not to move to San Francisco, but to remain in her home near Sacramento, and did much of her work from a small office in the Court's Sacramento chambers. Still, she had a passion for jazz, and could occasionally be spotted at Yoshi's, the venerable jazz club in Oakland (her husband is a jazz musician), sitting with legal briefs in hand.

ASSOCIATE JUSTICE
CAROL A. CORRIGAN



PHOTO BY ELSON-ALEXANDRE

Justice Corrigan was appointed to the California Supreme Court by Governor Arnold Schwarzenegger, taking office in January 2006. Prior to her elevation, she served on the California Court of Appeal (First District) in San Francisco from 1994 to 2006, on the Alameda County Superior Court from 1991 to 1994, and on the Alameda Municipal Court from 1987 to 1991. She began her legal career in 1975 as a Deputy District Attorney in Alameda County and became a Senior Deputy District Attorney in 1985.

She received her BA (with honors) from Holy Names University in Oakland. She then attended a clinical psychology doctoral program at St. Louis University for two years, but left to pursue a career in law. She earned

her JD from the University of California Hastings College of the Law in 1975.

Justice Corrigan has long been active in the legal community. In 2003 she received the Jurist of the Year award from the California Judicial Council, after chairing the Judicial Council's Task Force on Jury Instructions, which resulted in an overhaul of the jury instructions then in use and the development of those presently employed by the California superior courts. Justice Corrigan also has taught, as an adjunct professor, in several Bay Area law schools (including Boalt Hall, Hastings and USF). She continues to participate in programs designed for practicing attorneys (the National Institute of Trial Advocacy) and judges (the California Judicial College and the Center for Judicial Education and Research, on whose Governing Board she served from 1994–1997).

For many years she has also taken time to be active in her local community. Among her long-standing charitable commitments is serving, since 1982, on the Board of Saint Vincent's Day Home, a child development center in Oakland. Saint Vincent's provides a number of services, including child care and education, primarily to single parent families who struggle at or below the poverty line. Justice Corrigan also has been a member of the Board of Directors of Holy Names University since 1988, serving as president for 15 of those years. And watch for her on the links — she is an avid and accomplished golfer.

CHIEF JUSTICE TANI
CANTIL-SAKAUYE



PHOTO BY WAYNE WOODS PHOTOGRAPHY

Chief Justice Cantil-Sakauye was nominated to be California's 28th Chief Justice by Governor Arnold Schwarzenegger in July 2010 and sworn into

office in January 2011. She is the first Filipina American justice on the Court and the second woman to serve as the state's Chief Justice.

Before being appointed to the Supreme Court she served for more than 20 years on California trial and appellate courts. In 1990, Governor George Deukmejian appointed her to the Sacramento County Municipal Court. In 1997, Governor Pete Wilson elevated her to the Superior Court, where she established and presided over the first court in Sacramento County dedicated to domestic violence issues. In 2005, Governor Schwarzenegger appointed her to the California Court of Appeal (Third District) in Sacramento.

She received her BA from the University of California, Davis, graduating with honors in 1980. After taking a year off to visit the Philippines, she entered the UC Davis School of Law (King Hall) in 1981. Upon graduation in 1984, she worked as a Deputy District Attorney in the Sacramento County District Attorney's Office, where she prosecuted a variety of criminal offenses. In 1988, she served on the senior staff of Governor Deukmejian in two capacities: as Deputy Legal Affairs Secretary and as Deputy Legislative Secretary.

Chief Justice Cantil-Sakauye has been described as strong, quick, personable, and an expert multi-tasker — attributes that serve her well in her multiple public and internal roles as Chief Justice. In addition to carrying the full workload of one of seven justices and presiding over the state's highest court, she also chairs the Judicial Council — the policy-making body of California's judicial branch. In essence, she is the CEO of the largest judicial system in the United States. In this capacity, for the past few years she has grappled with the difficult challenges presented by continuing reductions in state funding.

Budget problems have not diminished the Chief Justice's commitment to continuing, and expanding, the Court's recent outreach initiatives: holding oral arguments in venues other than the courtrooms traditionally used in San Francisco, Los Angeles and Sacramento and routinely inviting community college and high school students to observe oral arguments and interact with the justices after the formal proceedings have concluded.

Multi-tasking applies to her personal life as well. She is married to Mark Sakauye, a retired Sacramento police lieutenant; they have two teenage daughters. She is a devoted mom who still makes time for her daughters' volleyball games and related events, where on weekends (when not traveling on official business statewide or nationwide) she can be seen up in the stands working on her iPad or iPhone — and yet cheering at just the right moment. ★